

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN WALTER COZART,

Defendant

and

COMMTECH WIRELESS,

Garnishee

THIS MATTER is before the Court sua sponte for reconsideration of the Court's most recent order granting relief from garnishment. Doc. No. 31.

Most recently, Cozart requested that the Court issue a similar order to the Social Security Administration, essentially asking the Court to disallow garnishment of 15% of his Social Security Disability Benefits. In that request, Cozart also informed the Court that he was no longer employed by Commtech wireless. See Doc. No. 27. In response, the Government filed a Motion for

Dismissal of Order of Garnishment (Doc. No. 29), requesting that the Court dismiss the 2011 Order of Garnishment, because Cozart no longer worked for Commtech Wireless. The Government also filed a response to Cozart's request for relief (Doc. No. 30), informing the Court that the Government is authorized to collect debts by administrative offset pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. §3701 et seq.

Defendant alleged financial hardship as a basis for relief from garnishment, but failed to provide the Government with a financial affidavit which would have allowed the Government to determine whether to seek a reduction in the Treasury Offset percentage. While the Court retains the authority to adjust payment schedules pursuant to 18 U.S.C. s. 6664(k), TOP offsets are not part of any payment schedule, but are instead part of the government's collection activities. Congress duly promulgated a statutory system that provides for a limit to the amount that may be offset. In this case, the Government is limited to collecting 15% of Defendant's Social Security benefits. This percentage is part of a calculation that exempts the amounts calculated to be reasonably necessary to meet a person's individual monthly living expenses. The Court does not have the authority to grant the relief Defendant requests, which is full and total relief of any garnishment of his Social Security Benefits. Further, the Court does not order that the payment schedule be changed from \$150/month. Based upon reconsideration of the issues, the Court DENIES Defendant's Motion for Relief from Garnishment (Doc. No. 27).

IT IS SO ORDERED.

Signed: June 8, 2015

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

